

ENTERED

January 22, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

ARTURO GONZALES,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL NO. 2:16-CV-189

ORDER

The Court now considers Respondent's Motion to Dismiss (Dkt. No. 17) and the Memorandum and Recommendation ("M&R") of the Magistrate Judge to whom this case was referred (Dkt. No. 24).

Petitioner Arturo Gonzales ("Gonzales") brings the above-captioned habeas petition, challenging his 2010 convictions for aggravated sexual assault of a child and indecency with a child. Dkt. No. 1. On November 3, 2016, Respondent filed a motion to dismiss, requesting that the Court dismiss Gonzales's petition as successive. Dkt. No. 17. Gonzales timely responded, arguing that his petition should be considered because the issues in this case could not have been presented earlier because of "constructive acts of fraud hidden from [him]." Dkt. No. 23 at 2.

On February 7, 2017, the Magistrate Judge issued an M&R recommending that Respondent's Motion to Dismiss be granted and Gonzales's petition be dismissed as time-barred and successive. Dkt. No. 24. Gonzales objects to the M&R, detailing similar arguments to those made in his response to Respondent's motion. Dkt. No. 25.

After independently reviewing the record and applicable law, the Court concludes that Gonzales's objections are not supported by law or evidence, and therefore **OVERRULES** Gonzales's objections (Dkt. No. 25) and **ADOPTS** the Magistrate Judge's February 7, 2017, M&R (Dkt. No. 24).

Accordingly, the Court **GRANTS** Respondent's Motion to Dismiss (Dkt. No. 17), **DISMISSES** Gonzales's petition for a writ of habeas corpus (Dkt. No. 1), and **DENIES** Gonzales a certificate of appealability.

Final Judgment will be entered separately in accordance with Federal Rule of Civil Procedure 58.

SIGNED this 22nd day of January, 2018.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge